

REMARKS

Claims 1-31, 52, and 54-62 are pending in the application with new claims 60-62 added herein. Applicant expresses appreciation for the allowance of claims 1-31, 52, and 54-59. Applicant asserts that new claims 60-62 are also allowable.

Applicant takes strong exception to certain of the Office's statement of reasons for allowance. The Office is reminded that the patent statutes require claims to be presented and interpreted in accordance with what the Applicant regards as its invention, not as to what the Office regards as the invention. Accordingly, the Office must read the claims as the Applicant regards them (as they are worded), not as the Office might regard them.

Certain of the Office's statements refer to language that is not in all of the claims and, accordingly, does not follow from allowability of claims that do not literally include such language. Certain of the Office's statements might be interpreted later as reading limitations into Applicant's claims that simply are not there or otherwise indicate that Applicant must regard its invention as that to which the Office has interpreted outside the literal claim language. For example, paragraph (1)(a) on page 2 of the Notice of Allowability states that the prior art fails to disclose the limitations of claim 20 including "a second metal-containing dielectric layer consisting of metal oxide." By comparison, claim 20 merely sets forth "a lanthanum-containing dielectric layer" without limiting such layer to "consisting of metal oxide." This might be interpreted to conclude that the Office reads Applicant's claim 20 to include this limitation and that therefore such claim is so limited. Yet, Applicant did not include such limitation in its claim as filed and had no intention that such claim would be so limited.

Also, for example, paragraph (1)(a) on page 2 of the Notice of Allowability states that the prior art fails to disclose all the limitations of claim 52 including a “first metal-containing dielectric layer consisting of metal oxide” and “a second metal-containing dielectric layer consisting of metal oxide.” By comparison, claim 52 sets forth a “first dielectric layer consisting essentially of hafnium oxide” and “a second dielectric layer consisting essentially of lanthanum oxide” (emphasis added). Clearly, Applicant did not intend claim 52 to be limited in the manner that might be inferred from the reasons for allowance.

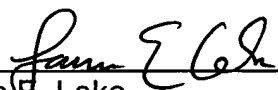
Further, for example, paragraph (1)(b) on page 2 of the Notice of Allowability states that the prior art fails to disclose all the limitations of claim 3 including “a second metal-containing dielectric layer consisting of metal oxide.” By comparison, claim 3 merely sets forth “all the metal of the second dielectric layer consisting of at least one element selected from Group IIIB of the Periodic Table” without limiting the second dielectric layer to consist of metal oxide. Certainly, Applicant did not intend claim 3 to be limited in the manner that might be inferred from the reasons for allowance.

The Office must interpret the claims in accordance with their literal wording and, to the extent that the Office has not already done so, such is mandated now. If the Office bases allowance upon language not appearing in the claims, then the Office must reject the claims and suggest insertion of such language. Applicant can then respond as it deems appropriate.

Allowance of the claims as literally worded is urged. Entry of the above added claims essentially precludes the independent claims from in any way being interpreted in the manner that might be inferred from the reasons for allowance. By virtue of claim 25, claim 20 cannot be interpreted to require that the lanthanum-containing dielectric layer consists of metal oxide. Similarly, new claims 60 and 61 preclude claim 52 from being interpreted as requiring the first dielectric layer or the second dielectric layer to consist of hafnium oxide or lanthanum oxide, respectively. Further, claim 62 precludes claim 3 from being interpreted as requiring the second dielectric layer to consist of metal oxide. If the Office enters the present amendment, then this file history is to be interpreted as if the Office's statement on reasons for allowance in the Notice of Allowability never existed or was withdrawn. If the Office disagrees with this just stated position, claim rejections are mandated or modification of the statements on reasons for allowance is warranted.

Respectfully submitted,

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